

EXHIBIT DD

New York State Unemployment Insurance Appeal Board
Transcript of Record

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In the Matter of: Kristy A. Pflug
Claimant - RESPONDENT

And

Suffolk City Police Department
Employer - APPELLANT

Peter M. Rivera,
Commissioner of Labor

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Case No.: 013-43181
Appeal Board No.: 579174

Date of Hearing: March 12, 2014

Place of Hearing: Hauppauge, New York

Before: Scott Mann
Administrative Law Judge

Transcribed by: Nicole L. Mastin

Appearances:

Clk: Kristy A. Pflug
Clk Rep: Law Offices of Steven J. Moser, P.C.
Clk Rep by: Steven Moser
Emp: Suffolk City Police Department
Emp Rep: Industrial U.I. Services
Emp Rep by: Robert Lorenzo
Emp Witness: Petrina Hubner, Public Safety
Dispatcher III

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2 for her the next day.

3 It was -- I was not home for her. It was, um -- my
4 husband had to do some of the supplementation without
5 me there. Sometimes it was like a two person job,
6 because she was so difficult about it.

7 Q. But despite her condition, you were able to continue
8 on the job from 2011 right to 2013?

9 A. Right.

10 Q. Okay.

11 A. We got it under control.

12 Q. Now, based on the testimony I heard that you gave at
13 the last hearing and the medicals I received it
14 indicates that you had a medical condition, you
15 yourself. Is that correct?

16 A. When I came back, I had, um, Transverse Myelitis,
17 which is swelling of the spinal cord. And that
18 caused numbness in my extremities. So I got
19 diagnosed probably I think five months after she was
20 born. And it took a little over a year or about a
21 year to -- to rectify that.

22 Q. So the fall of 2011, you were diagnosed with the --
23 is it a back problem, a spinal problem?

24 A. They're not really sure what caused it. I had to go
25 through numerous, um, blood work and all sorts of

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2 things. It was a very lengthy process trying to
3 diagnose. And they never really figured out what
4 caused the swelling. They said at the end it may
5 have been viral, it may have been stress related from
6 having the baby and -- and sleepless nights. They
7 weren't really -- my neurologist wasn't -- there was
8 no definite this is what caused it.

9 Q. So that was diagnosed in the fall of 2011?

10 A. Let me think.

11 Q. About five -- you said five months after the baby was
12 born.

13 A. Yeah. Yeah. Yes.

14 Q. Okay. Now, how long did that condition, uh,
15 continue?

16 A. It continued into when I started working again. I
17 did let them know before I went to work, because I
18 had left work at midnight and, um, the midnight was
19 gonna be too much stress. And -- and I did write
20 before that I was gonna have to do it for child care
21 issues and everything else, if I could get to the 8
22 to 4's and the 4 to 12's.

23 Q. Um-hum. Now, did the condition worsen after the fall
24 of 2011, your condition?

25 A. It got worse before it got better, yes.

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2 Q. Did -- did there ever get a time when it got better?

3 A. Uh, yes.

4 Q. When did it get better?

5 A. Um, probably -- it took pretty much the full year.

6 So I would say the fall -- the following fall I
7 was --

8 Q. So the fall of 2012?

9 A. Right.

10 Q. 2012. Now, you quit your job, am I correct, in July
11 of 2013, right?

12 A. Yes.

13 Q. Now, why did you quit your job if both your
14 daughter's condition improved and your condition
15 improved?

16 A. I started getting headaches that possibly could've
17 been related to -- when they -- whenever they go into
18 your spinal area, you can get very severe headaches.
19 And I started having issues with headaches, very,
20 very horrible headaches. And for some reason, at
21 work it was aggravated to the point where I was
22 getting headaches two or three times a week.

23 Q. When did those headaches start?

24 A. When I started -- probably a couple months after I
25 started working.

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2 Q. So as early as 2011?

3 A. They started not that bad.

4 Q. Or '12. '12. 2012.

5 A. They started not that bad and then they got worse.

6 Q. And they continued until when?

7 A. 'Til I left. And I still get them once in a while,
8 but not as frequently as --

9 Q. What doctor was treating you for the headaches?

10 A. Um, my family physician.

11 Q. What's that -- what's the doctor's name?

12 A. Dr. Jurasits.

13 Q. Jurasits?

14 A. Yeah. She's on North Country Family Medical.

15 Q. Now, you submitted certain -- I see. There's a
16 medical here. Erika Jurasits.

17 A. Yeah, that's her.

18 MR. LORENZO: And we have August 29th, '12.

19 "Limitations to hours worked: May not work more than
20 eight hours a day, secondary to medical condition."

21 Did you -- oh, I see another medical here. Um,

22 Judge, this is -- this is part of the record.

23 ALJ MANN: Um-hum.

24 MR. LORENZO: It's an exhibit.

25 ALJ MANN: Um-hum.

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2 MR. LORENZO: Certificate for work restrictions,
3 dated November 17th, 2012, Dr. Erika --

4 MS. PFLUG: Jurasits.

5 MR. LORENZO: -- Jurasits. (Unintelligible, one
6 second, 0:15:10) multiple concern. Patient is
7 diagnosed with Transverse --

8 MS. PFLUG: Myelitis --

9 MR. LORENZO: Myelitis --

10 MS. PFLUG: -- which was the first thing.

11 MR. LORENZO: -- resulting in headaches. Okay.

12 BY MR. LORENZO

13 Q. Why did you quit your job in July of 2013?

14 A. I was just totally overwhelmed with the stress of not
15 feeling well and the mandates were gonna get worse
16 once the summer came. And it was just becoming too
17 much.

18 It -- it -- it was a demanding job when I took it and
19 I knew that. I knew I was gonna work weekends. I
20 was gonna work holidays. I was getting mandated and
21 it did happen a few times a year, but then it was
22 happening a few times a week. And it just got too
23 much.

24 Q. And Ms., uh -- Ms. Pflug, when you took the job, do
25 you admit that you knew that overtime was part of

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2 the package, that you were --

3 A. Yes. It said -- when they -- it said you may be
4 mandated and that did happen. It would happen a few
5 times a year. I mean, I was there 11 years, and
6 it --

7 Q. Um-hum.

8 A. And I understood it was part of the job if there were
9 storms or if there were big traffic accidents or the
10 blackout. I understand for those things.

11 Q. Um-hum. Were these headaches interfering with --
12 with -- with any other aspect of your life?

13 A. Oh, yeah.

14 Q. How so?

15 A. Absolutely.

16 Q. How so?

17 A. They were so bad that -- here's the problem also. I
18 was breast-feeding. So I could not take a lot of
19 medications, because it goes through to your child.
20 So at that point, I was limited on what I could do.
21 So I couldn't get much relief. It would be at least
22 24 hours. And I would be to the point where I could
23 hardly open my eyes. They would hurt.

24 Q. Now, if it wasn't for the overtime that was mandated,
25 did -- would you have continued on the job? Am I

16

1 HUBNER - WITNESS

2 BY ALJ MANN

3 A. So the note dated 11/17 of 2012 did address
4 diagnosis, prognosis, and duration. This is the one
5 that was --

6 Q. Um-hum.

7 A. -- forwarded so that it could be considered through
8 labor relations for, um, whatever considerations they
9 were willing to make.

10 Q. Okay. So what did labor relations do about it, if
11 anything?

12 A. Um, it came back -- the word came back to me that
13 labor relations -- part of our job -- mandated
14 overtime and overtime was a requirement of the job,
15 and that it could not be -- there weren't exemptions
16 and you are either fit for duty or unfit for duty.
17 And that was the end of it for us.

18 Q. Okay.

19 A. And we do not accept exemptions for any employees
20 now.

21 ALJ MANN: Okay. Okay. Mr. Lorenzo, any
22 questions for Ms. Hubner?

23 BY MR. LORENZO

24 Q. Now, that policy of not accepting any exemptions,
25 when was that put into place, if you know?

1 HUBNER - WITNESS

2 A. Uh, well, I can officially document the -- the e-mail
3 of January of 2013, but --

4 Q. January 2013.

5 A. But August of 2012 is when, um, we needed to address
6 the mandated overtime exemptions situation.

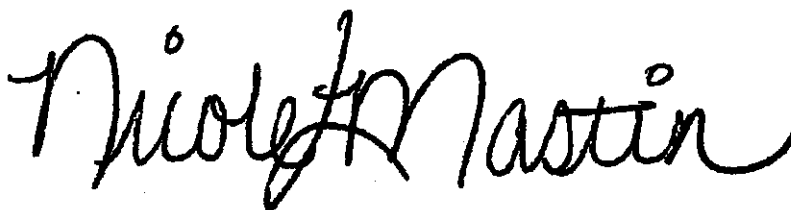
7 Q. Okay. All right. And, um, you've heard the
8 claimant's testimony today. Um, you had an
9 opportunity to review the exhibits that the claimant
10 submitted to the Judge at the last hearing. Do you
11 have any comments or any further testimony concerning
12 her testimony or the exhibits?

13 A. Um, she has acknowledged the fact that overtime is
14 part of the job. And that's really the -- the issue,
15 is it is a requirement. At orientation, it's
16 discussed, at hiring. Um, it -- it's something that
17 is part of what we do.

18 And, you know, it is unfortunate that we have
19 come through a period where the mandates were very
20 common because we were short personnel. And I'm
21 happy to say that things are -- are better today, but
22 it doesn't change the dynamics of what was happening
23 for the last two and a half, three years.

24 MR. LORENZO: I understand. Judge, I seem to
25 have copies of all the medicals the claimant

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